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PREPARED BY:



1326756043

Name: Ventura Realty

Doc#: 1326756043 Fee: \$68.00

RHSP Fee: \$9.00 RPRF Fee: \$1.00

Karen A. Yarbrough

Cook County Recorder of Deeds

Date: 09/24/2013 02:47 PM Pg: 1 of 16

Address: 1459-1463 Elmwood Avenue
Evanston, Illinois 60201

RETURN TO:

Name: Randy Cohn

Address: 210 Kilpatrick Avenue
Wilmette, Illinois 60091

(THE ABOVE SPACE FOR RECORDER'S OFFICE)

LEAKING UNDERGROUND STORAGE TANK ENVIRONMENTAL NOTICE

THE OWNER AND/OR OPERATOR OF THE LEAKING UNDERGROUND STORAGE TANK SYSTEM(S) ASSOCIATED WITH THE RELEASE REFERENCED BELOW, WITHIN 45 DAYS OF RECEIVING THE NO FURTHER REMEDIATION LETTER CONTAINING THIS NOTICE, MUST SUBMIT THIS NOTICE AND THE REMAINDER OF THE NO FURTHER REMEDIATION LETTER TO THE OFFICE OF THE RECORDER OR REGISTRAR OF TITLES OF COOK COUNTY IN WHICH THE SITE DESCRIBED BELOW IS LOCATED.

Illinois EPA Number: 031015341

Leaking UST Incident Number: 20100368

Ventura Realty, the owner and/or operator of the leaking underground storage tank system(s) associated with the above-referenced incident, whose address is 1459-1463 Elmwood Avenue, has performed investigative and/or remedial activities for the site identified as follows:

1. Legal Description or Reference to a Plat Showing the Boundaries: LOTS 13, 14 AND 15 IN BLOCK 52 IN EVANSTON IN THE SOUTHWEST ¼ OF SECTION 18, TOWNSHIP 41 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDAN, IN COOK COUNTY, ILLINOIS.:
2. Common Address: 1459-1463 Elmwood Avenue, Evanston, Illinois
3. Real Estate Tax Index/Parcel Index Number: 11183170040000 and 11183170050000
4. Site Owner: Ventura Realty
5. Land Use Limitation: There are no land use limitations.
6. See the attached No Further Remediation Letter for other terms.

SLS



UNOFFICIAL COPY ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276 • (217) 782-2829

PAT QUINN, GOVERNOR

LISA BONNETT, DIRECTOR

217/524-3300

CERTIFIED MAIL

SEP 17 2013

7012 0470 0001 2974 3115

Ventura Realty
Attn: Randall Cohn
210 Kilpatrick Avenue
Wilmette, Illinois 60091

Re: LPC # 051015341 -- Cook County
Evanston/Ventura Realty
1459-1463 Elmwood Avenue
Leaking UST Incident No. 20120368 -- NFR Letter
Leaking UST Technical File

Dear Mr. Cohn:

The Illinois Environmental Protection Agency (Illinois EPA) has reviewed the Corrective Action Completion Report submitted for the above-referenced incident. This information was dated June 07, 2013 and was received by the Illinois EPA on June 10, 2013. Citations in this letter are from the Environmental Protection Act (Act), as amended by Public Act 92-0554 on June 24, 2002, and Public Act 96-0908 on June 8, 2010, and 35 Illinois Administrative Code (35 Ill. Adm. Code).

The Corrective Action Completion Report and the Licensed Professional Engineer Certification submitted pursuant to Section 57.7(b)(1) of the Act and 35 Ill. Adm. Code 134.135(d) indicate the remediation objectives have been met.

Based upon the certification by Cristopher Proctor, a Licensed Professional Engineer, and pursuant to Section 57.10 of the Act (415 ILCS 5/57.10), your request for a no further remediation determination is granted under the conditions and terms specified in this letter.

Issuance of this No Further Remediation Letter (Letter), based on the certification of the Licensed Professional Engineer, signifies that: (1) all statutory and regulatory corrective action requirements applicable to the occurrence have been complied with; (2) all corrective action concerning the remediation of the occurrence has been completed; and (3) no further corrective action concerning the occurrence is necessary for the protection of human health, safety, and the environment. Pursuant to Section 57.10(d) of the Act, this Letter shall apply in favor of the following parties:

1. Ventura Realty, the owner or operator of the underground storage tank system(s).
2. Any parent corporation or subsidiary of such owner or operator.
3. Any co-owner or co-operator, either by joint tenancy, right-of-survivorship, or any other party sharing a legal relationship with the owner or operator to whom the Letter is issued.
4. Any holder of a beneficial interest of a land trust or inter vivos trust whether revocable or irrevocable.

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5. Any mortgagee or trustee of a deed of trust of such owner or operator.
6. Any successor-in-interest of such owner or operator.
7. Any transferee of such owner or operator whether the transfer was by sale, bankruptcy proceeding, partition, dissolution of marriage, settlement or adjudication of any civil action, charitable gift, or bequest.
8. Any heir or devisee of such owner or operator.
9. An owner of a parcel of real property to the extent that this Letter applies to the occurrence on that parcel.

This Letter and all attachments, including but not limited to the Leaking Underground Storage Tank Environmental Notice, must be filed within 45 days of receipt as a single instrument with the Office of the Recorder or Registrar of Titles in the county in which the above-referenced site is located. In addition, the Groundwater Ordinance (photocopy attached) must be filed as an attachment of this Letter with the Office of the Recorder or Registrar of Titles of the applicable county. This Letter shall not be effective until officially recorded by the Office of the Recorder or Registrar of Titles of the applicable county in accordance with Illinois law so it forms a permanent part of the chain of title for the above-referenced property. Within 30 days of this Letter being recorded, an accurate and official copy of this Letter, as recorded, shall be obtained and submitted to the Illinois EPA. For recording purposes, it is recommended that the Leaking Underground Storage Tank Environmental Notice of this Letter be the first page of the instrument filed.

CONDITIONS AND TERMS OF APPROVAL

LEVEL OF REMEDIATION AND LAND USE LIMITATIONS

1. The groundwater under the site shall not be used as a potable water supply.
2. As a result of the release from the underground storage tank system(s) associated with the above-referenced incident, the above-referenced site, more particularly described in the attached Leaking Underground Storage Tank Environmental Notice of this Letter, shall not be used in a manner inconsistent with the following land use limitation: There are no land use limitations.
3. The land use limitation specified in this Letter may be revised if:
 - a. Further investigation or remedial action has been conducted that documents the attainment of objectives appropriate for the new land use; and
 - b. A new No Further Remediation Letter is obtained and recorded in accordance with Title XVII of the Act and regulations adopted thereunder.

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PREVENTIVE, ENGINEERING, AND INSTITUTIONAL CONTROLS

4. Preventive: Prior to commencement of any future excavation and/or construction in or near the contaminated zone of the remediation site, a safety plan for this remediation site is required that is consistent with the National Institute for Occupational Safety and Health Guidance Manual for Hazardous Waste Site Activities; Occupational Safety and Health Administration regulations, particularly in 29 CFR 1910 and 1926; state and local regulations; and other U.S. EPA guidance as provided. At a minimum, the plan should address possible worker exposure if any future excavation and construction activities occur within the contaminated soil.4d
- Engineering: An asphalt barrier that is sufficient in thickness to inhibit the inhalation and ingestion of the contaminated media must remain over the contaminated soil as outlined in the attached Site Base Map. This asphalt barrier is to be properly maintained as an engineered barrier to inhibit inhalation and ingestion of the contaminated media.
- Institutional: This Letter shall be recorded as a permanent part of the chain of title for the above-referenced site, more particularly described in the attached Leaking Underground Storage Tank Environmental Notice of this Letter.

Highway Authority Agreement

Village of Evanston agrees, through the use of a Highway Authority Agreement, to allow contaminated groundwater and/or soil to remain beneath its highway right-of-way adjacent to the site located at 1459-1463 Elmwood Avenue Evanston, Illinois. Specifically, as shown on the attached map, contamination will remain in the right-of-way for Elmwood Avenue as indicated in the Highway Authority Agreement. The Highway Authority agrees to: (a) prohibit the use of groundwater under the highway right-of-way that is contaminated above Tier 1 groundwater remediation objectives as a potable or other domestic supply of water, and (b) limit access to soil contamination under the highway right-of-way that is contaminated above residential Tier 1 soil remediation objectives. A copy of the Highway Authority Agreement can be obtained through a written request under the Freedom of Information Act (5 ILCS 140) to the Bureau of Land, FOIA Unit as detailed elsewhere in this letter. Questions regarding the Highway Authority Agreement should be directed to:

Village of Evanston
2100 Ridge Avenue
Evanston, Illinois 60201

Groundwater Use Ordinance The City of Evanston Groundwater Use Ordinance effectively prohibits the installation of potable water supply wells (and the use of such wells) and is an acceptable institutional control under the following conditions:

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Each affected or potentially affected (as shown through contaminant modeling) property owner and the City of Evanston must receive written notification from the owner or operator desiring to use the ordinance as an institutional control that groundwater remediation objectives have been approved by the Illinois EPA. Written proof of this notification shall be submitted to the Illinois EPA in accordance with 35 Ill. Adm. Code 742.1015(b) and (c) within 45 days from the date this Letter is recorded. The notification shall include:

- a. The name and address of the unit of local government;
- b. The citation of the ordinance used as an institutional control in this Letter;
- c. A description of the property being sent notice by adequate legal description or by reference to a plat showing the boundaries;
- d. A statement that the ordinance restricting the groundwater use was used by the Illinois EPA in reviewing a request for groundwater remediation objectives;
- e. A statement as to the nature of the release and response action with the name, address, and Illinois EPA inventory identification number; and
- f. A statement as to where more information may be obtained regarding the ordinance.

The following activities shall be grounds for voidance of the ordinance as an institutional control and this Letter:

- a. Modification of the referenced ordinance to allow potable uses of groundwater.
- b. Approval of a site-specific request, such as a variance, to allow use of groundwater at the site.
- c. Violation of the terms of a recorded institutional control.

As a part of its corrective action, the leaking underground storage tank site has relied upon The City of Evanston Groundwater Use Ordinance that prohibits potable uses of groundwater as defined therein.

5. Failure to establish, operate, and maintain controls in full compliance with the Act, applicable regulations, and the approved corrective action plan, if applicable, may result in voidance of this Letter.

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OTHER TERMS

6. Any contaminated soil and/or groundwater removed or excavated from, or disturbed at, the above-referenced site, more particularly described in the Leaking Underground Storage Tank Environmental Notice of this Letter, must be handled in accordance with all applicable laws and regulations under 35 Ill. Adm. Code Subtitle G.
7. Further information regarding the above-referenced site can be obtained through a written request under the Freedom of Information Act (5 ILCS 140) to:

Illinois Environmental Protection Agency
Attention: Freedom of Information Act Officer
Bureau of Land - #24
1021 North Grand Avenue East
Post Office Box 19276
Springfield, IL 62794-9276
8. Pursuant to 35 Ill. Adm. Code 734.720, should the Illinois EPA seek to void this Letter, the Illinois EPA shall provide Notice of Avoidance to the owner or operator of the leaking underground storage tank system(s) associated with the above-referenced incident and the current title holder of the real estate on which the tanks were located, at their last known addresses. The notice shall specify the cause for the avoidance, explain the provisions for appeal, and describe the facts in support of the avoidance. Specific acts or omissions that may result in the avoidance of this Letter include, but shall not be limited to:
 - a. Any violation of institutional controls or industrial/commercial land use restrictions;
 - b. The failure to operate and maintain preventive or engineering controls or to comply with any applicable groundwater monitoring plan;
 - c. The disturbance or removal of contamination that has been left in-place in accordance with the Corrective Action Plan or Completion Report;
 - d. The failure to comply with the recording requirements for the Letter;
 - e. Obtaining the Letter by fraud or misrepresentation; or
 - f. Subsequent discovery of contaminants, not identified as part of the investigative or remedial activities upon which the issuance of the Letter was based, that pose a threat to human health or the environment.

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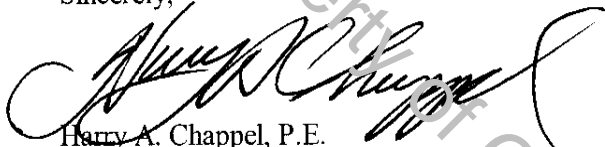
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Submit an accurate and official copy of this Letter, as recorded, to:

Illinois Environmental Protection Agency
Bureau of Land - #24
Leaking Underground Storage Tank Section
1021 North Grand Avenue East
Post Office Box 19276
Springfield, IL 62794-9276

If you have any questions or need further assistance, please contact the Illinois EPA project manager, Shirlene South, at 217/558-0347.

Sincerely,



Harry A. Chappel, P.E.
Unit Manager
Leaking Underground Storage Tank Section
Division of Remediation Management
Bureau of Land

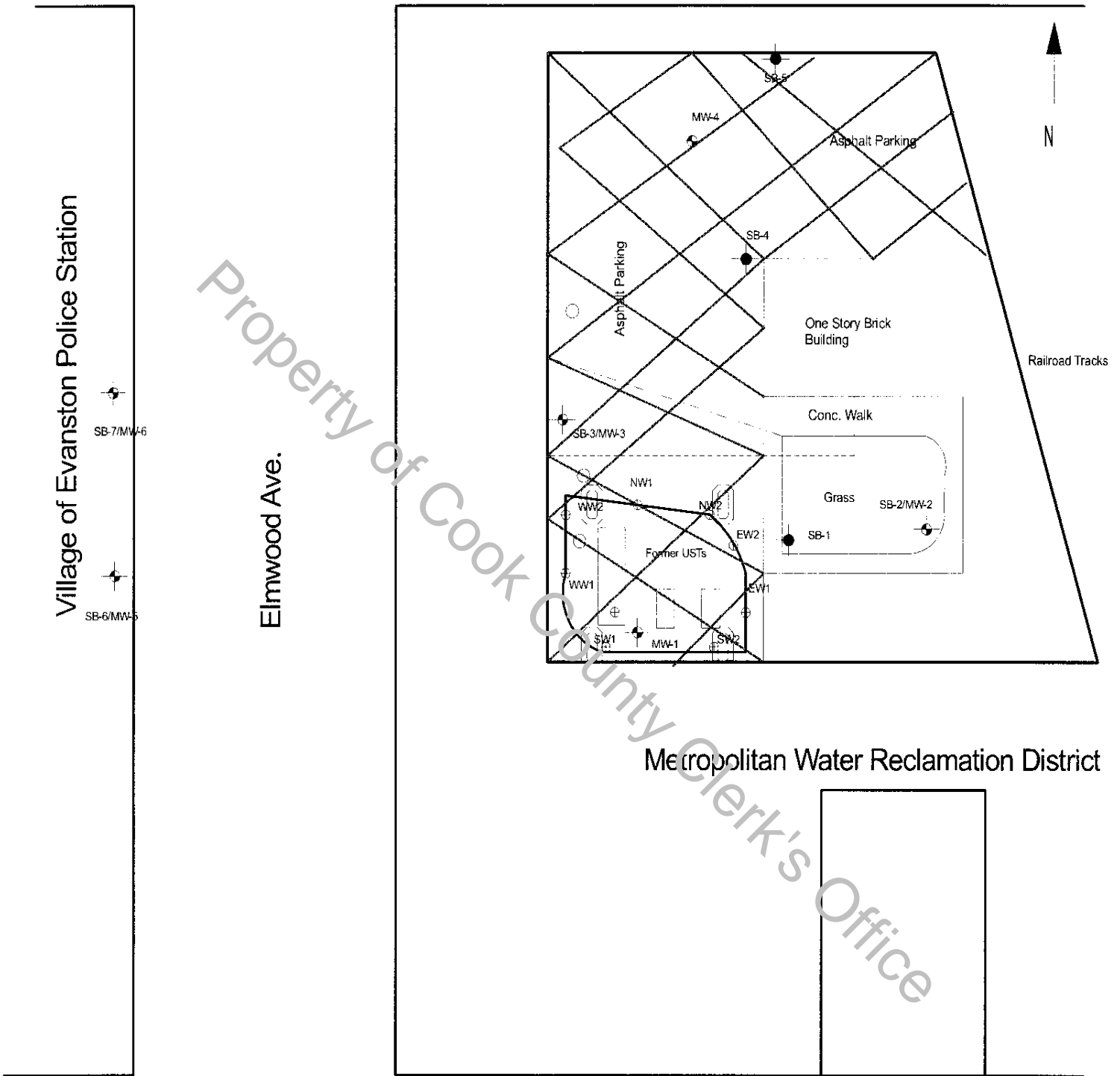
HAC:SLS\

Attachments: Leaking Underground Storage Tank Environmental Notice
Site Map showing Engineered Barrier on-site
Site Map showing Highway Authority agreement with engineered barrier

c: Yung Environmental
BOL File

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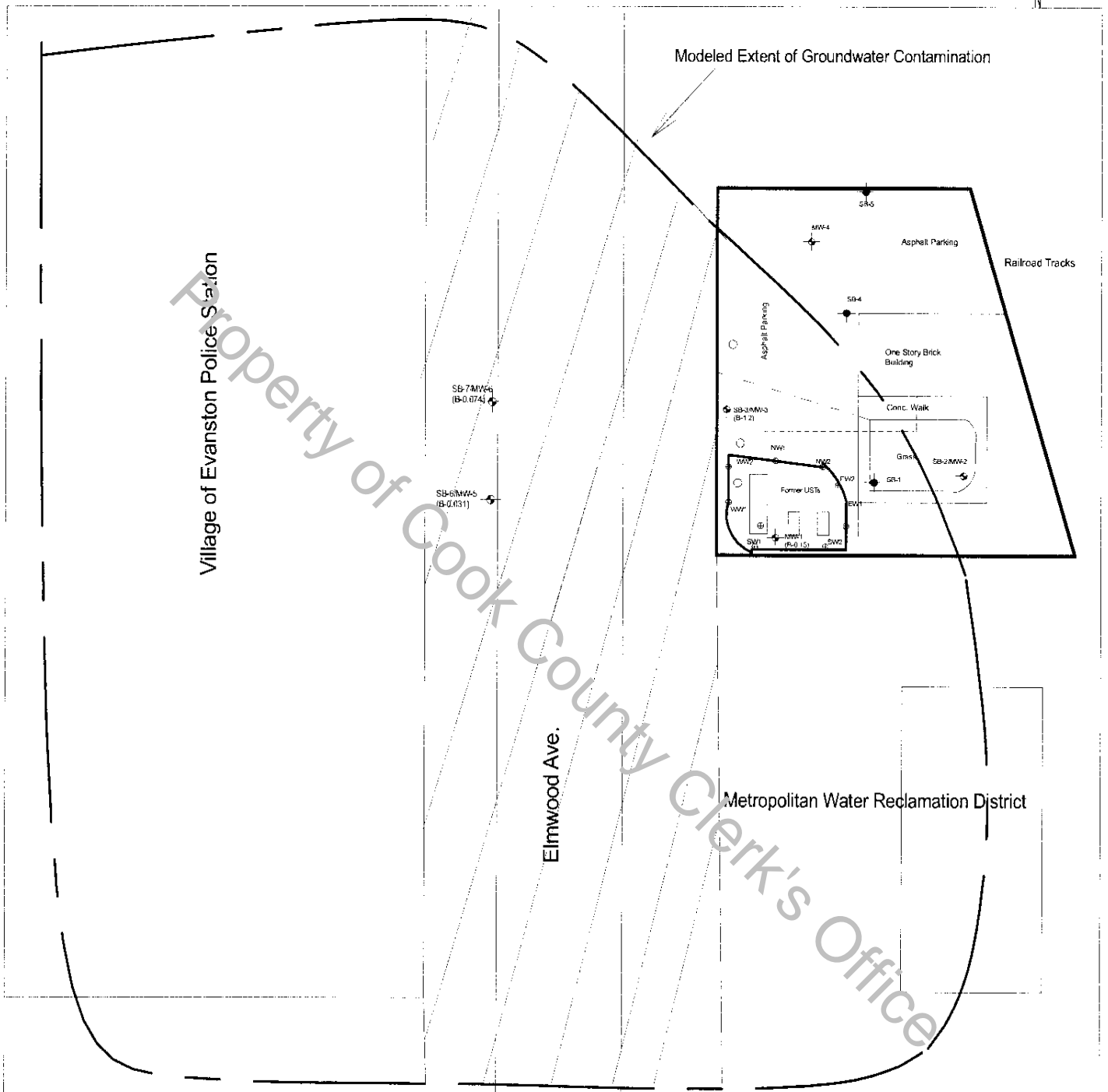
Legend

- | | | | | | |
|--|------------------|--|-----------------|--|---------------------------------------|
| | Sewer Manhole | | Soil Boring | | Tank Excavation Soil Sample |
| | Natural Gas Line | | Monitoring Well | | Engineered Barrier (Asphalt Pavement) |
| | Water Main | | | | |

Scale: 1 inch = 27 Feet

Yung Environmental, Inc. 6855 Didrikson Lane, Woodridge, IL 60517 (630)420-0913	Figure 2: Site Map Showing Extent of Engineered Barrier	1459 - 1463 Elmwood Avenue Evanston, Illinois
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Scale: 1 inch = 40 Feet

Legend

- Sewer Manhole
- Natural Gas Line
- Water Main
- Soil Boring
- Monitoring Well
- Tank Excavation Soil Sample
- B-0.15 Benzene Concentration mg/L
- Area of Highway Authority Agreement

Yung Environmental, Inc.
 6855 Didrikson Lane, Woodridge, IL 60517
 (630)420-0913

Figure 3: Site Map Showing Highway Authority Agreement

1459 - 1463 Elmwood Avenue
 Evanston, Illinois

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Municipality: Evanston

County: Cook

LPC Number:

OC: 98062401

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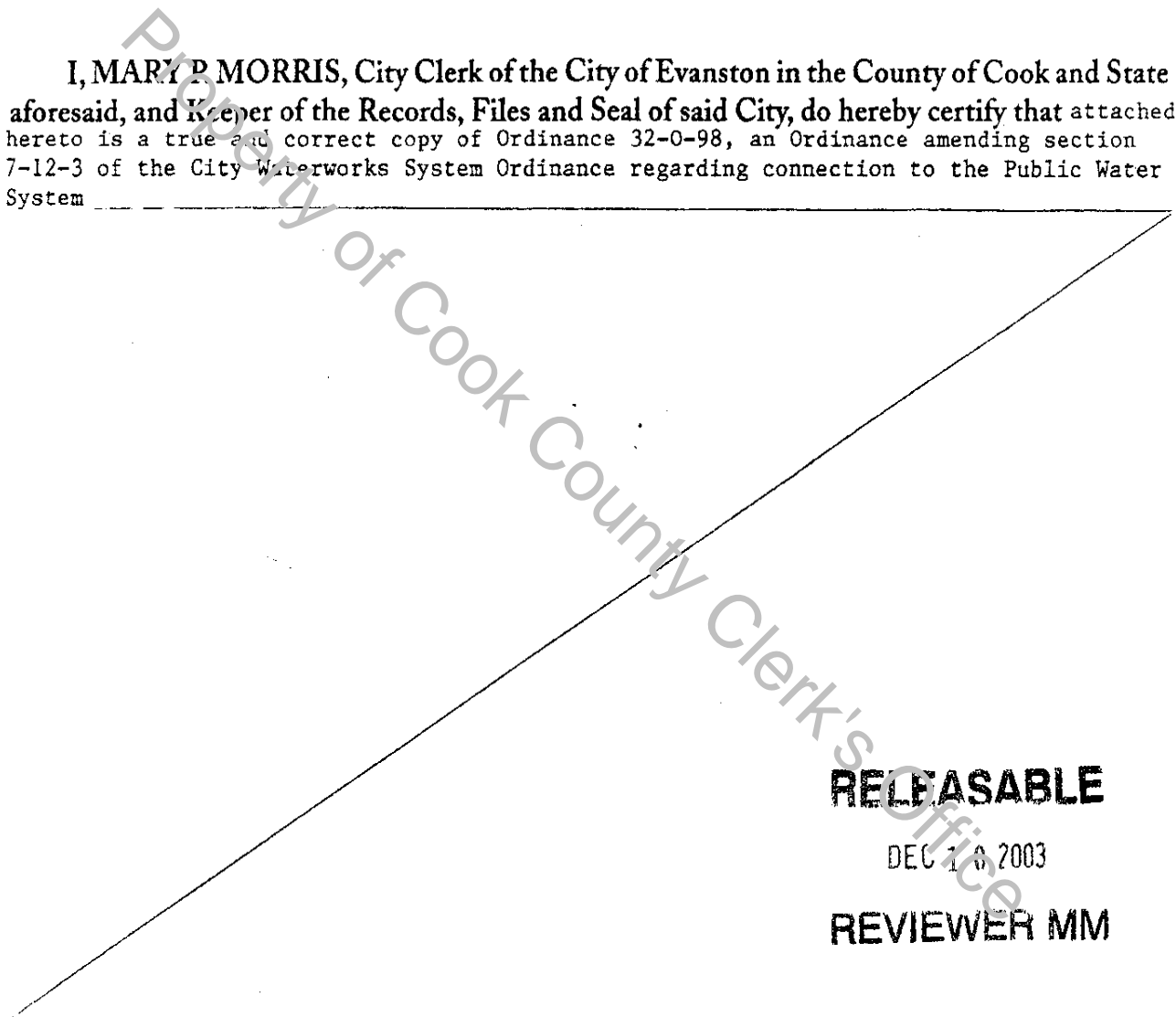
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Form 145 Clk 1M

Certificate as Keeper of Records, Files and Seal

STATE OF ILLINOIS }
COUNTY OF COOK } ss.

I, MARY P MORRIS, City Clerk of the City of Evanston in the County of Cook and State aforesaid, and Keeper of the Records, Files and Seal of said City, do hereby certify that attached hereto is a true and correct copy of Ordinance 32-0-98, an Ordinance amending section 7-12-3 of the City Waterworks System Ordinance regarding connection to the Public Water System



RELEASABLE

DEC 16 2003

REVIEWER MM

all of which appears from the records and files in my office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of the City of Evanston this 11th day of June 1998

Mary P. Morris
City Clerk

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32-O-98

2/27/98

**An Ordinance
Amending Section 7-12-3
of the City Waterworks System Ordinance
Regarding Connection to the Public Water System**

NOW, THEREFORE, Be It Ordained by the City Council of the City of Evanston, Cook County, Evanston, Illinois:

SECTION 1: That Section 7-12-3 of the Evanston City Code of 1979, as amended, be and it hereby is, further amended by renumbering existing subsections 7-12-3 (A) through 7-12-3 (C) as 7-12-3 (E) through 7-12-3 (D) respectively, and by adding a new subsection 7-12-3 (A), to read as follows:

7-12-3 (A) **Public Water Main Connection Required:** The water distribution of any building in which plumbing fixtures are installed shall be connected to a public water main. The drilling of wells for use as a potable or non-potable water source, including for irrigation, is prohibited within the City.

SECTION 2: That all ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 3: That this ordinance shall be in full force and effect from and after its passage, approval, and publication in the manner provided by law.

Introduced: March 9, 1998

Adopted: March 23, 1998

Approved: March 26, 1998

Lorraine H. Norton
Mayor

ATTEST:

Mary J. Morris
City Clerk

Approved as to form:

[Signature]
Corporation Counsel

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Original

**MEMORANDUM OF UNDERSTANDING BETWEEN THE
CITY OF EVANSTON
AND THE
ILLINOIS ENVIRONMENTAL PROTECTION AGENCY
REGARDING THE USE OF A LOCAL GROUNDWATER OR
WATER WELL ORDINANCE AS AN ENVIRONMENTAL
INSTITUTIONAL CONTROL**

I. PURPOSE AND INTENT

- A. This Memorandum of Understanding ("MOU") is entered into between the City of Evanston and the Illinois Environmental Protection Agency ("Illinois EPA") for the purpose of satisfying the requirements of 35 Ill. Adm. Code 742.1015 for the use of groundwater or water well ordinances as environmental institutional controls. The Illinois EPA has reviewed the groundwater or water well ordinance of the City of Evanston adopted on March 26, 1998 "An ordinance amending section 7-12-3 of the City Waterworks System Ordinance regarding connection to the Public Water System" (Attachment A) and determined that the ordinance prohibits the use of groundwater for potable purposes and/or the installation and use of new potable water supply wells by private entities but does not expressly prohibit those activities by the unit of local government itself. In such cases, 35 Ill. Admin. Code 742.1015(a) provides that the unit of local government may enter into an MOU with the Illinois EPA to allow the use of the ordinances as an institutional control.
- B. The intent of the Memorandum of Understanding is to specify the responsibilities that must be assumed by the unit of local government to satisfy the requirements for MOU as set forth at 35 Ill. Adm. Code 742.1015(i).

II. DECLARATIONS AND ASSUMPTION OF RESPONSIBILITY

In order to ensure the long-term integrity of the groundwater or water well ordinance as an environmental institutional control and that risk to human health and the environment from contamination left in place in reliance on the groundwater or water well ordinance is effectively managed, the City of Evanston hereby assumes the following responsibilities pursuant to 35 Ill. Adm. Code 742.1015(i);

- A. City of Evanston will notify the Illinois EPA Bureau of Land of any proposed ordinance changes or requests for variance at least 30 days prior to the date the local government is scheduled to take action on the proposed change or request (35

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- Ill. Adm. Code 742.1015(I)(4));
- B. City of Evanston will maintain a registry of all sites within its corporate limits that have received "No Further Remediation" determinations from the Illinois EPA (35 Ill. Adm. Code 742.1015(I)(5)), provided that Illinois EPA provides notice to the City of Evanston of such determinations. Notices should be sent to: Dennis Marino, Assistant Director for Planning, 2100 Ridge Avenue, Evanston, Illinois 60201.
 - C. City of Evanston will review the registry of sites established under paragraph II.B. prior to siting public potable water supply wells within the area covered by the ordinance (35 Ill. Adm. Code 742.1015(I)(6)(A));
 - D. City of Evanston will determine whether the potential source of potable water has been or may be affected by contamination left in place at the sites tracked and reviewed under paragraphs II.B. and C. (35 Ill. Adm. Code 742.1015(I)(6)(B)); and
 - E. City of Evanston will take action as necessary to ensure that the potential source of potable water is protected from contamination or treated before it is used as a potable water supply (35 Ill. Adm. Code 742.1015(I)(6)(C)).

NOTE: Notification under paragraph II. A. above or other communications concerning this MOU should be directed to:

Manager, Division of Remediation Management
 Bureau of Land
 Illinois Environmental Protection Agency
 P. O. Box 19276
 Springfield, IL 62794-9276

III. SUPPORTING DOCUMENTATION

The following documentation is required by (35 Ill. Adm. Code 742.1015(I)) and is attached to this MOU:

- A. Attachment A: A copy of the groundwater or water well ordinance certified by the City clerk or other official as the current, controlling law (35 Ill. Adm. Code 742.1015(I)(3));
- B. Attachment B: Identification of the legal boundaries within which the ordinance is applicable (certification by city clerk or other official that the ordinance is applicable everywhere within the corporate limits; if ordinance is not applicable throughout the entire city or village, legal description and map of area showing sufficient detail to determine where ordinance is applicable) (35 Ill. Adm. Code 742.1015(I)(2));

IN WITNESS WHEREOF, the lawful representatives of the parties have caused this MOU

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to be signed as follows:

FOR: City of Evanston
(Name of city or village)

BY: *Roger D. Crum*

DATE: 6/11/98

BY: Roger D. Crum, City Manager
(Name and title of signatory)

DATE: 6/11/98

FOR: Illinois Environmental Protection Agency

BY: *Gary P. King*
(Name and title of signatory)
Manager, Remediation Management

DATE: 7/29/98

C.M.U.P.

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EXHIBIT B

